



General Assembly

February Session, 2004

Raised Bill No.

LCO No. 84

Referred to Committee on

Introduced by:
(GAE)

***AN ACT CONCERNING THE COMPOSITION AND FUNDING OF THE
STATE ETHICS COMMISSION.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (a) of section 1-80 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2004*):

4 (a) There shall be a State Ethics Commission consisting of [seven]
5 nine members to be appointed with the advice and consent of the
6 General Assembly. One member shall be appointed by the speaker of
7 the House, one member by the president pro tempore of the Senate,
8 one member by the majority leader of the Senate, one member by the
9 minority leader of the Senate, one member by the majority leader of
10 the House of Representatives, one member by the minority leader of
11 the House of Representatives and three members by the Governor.
12 Members of the commission shall serve for four-year terms which shall
13 commence on October first, except that members first appointed shall
14 have the following terms: The Governor shall appoint two members
15 for a term of three years and one member for a term of four years; the
16 minority leader of the House of Representatives and the speaker of the

17 House of Representatives shall each appoint one member for a term of
18 two years; the president pro tempore of the Senate and the minority
19 leader of the Senate shall each appoint one member for a term of four
20 years. No individual shall be appointed to more than one four-year
21 term as a member of such commission, provided that members may
22 continue in office until a successor has been appointed and qualified.
23 No more than ~~[four]~~ five members shall be members of the same
24 political party. The members appointed by the majority leader of the
25 Senate and the majority leader of the House of Representatives shall be
26 selected from a list of nominees proposed by a citizen group having an
27 interest in ethical government. The majority leader of the Senate and
28 the majority leader of the House of Representatives shall each
29 determine the citizen group from which each will accept such
30 nominations. On and after October 1, 2004, one member appointed by
31 the Governor shall be selected from a list of nominees proposed by a
32 citizen group having an interest in ethical government. The Governor
33 shall determine the citizen group from which the Governor will accept
34 such nominations.

35 Sec. 2. Subsection (d) of section 1-80 of the general statutes, as
36 amended by section 1 of public act 0319, is repealed and the following
37 is substituted in lieu thereof (*Effective October 1, 2004*):

38 (d) The commission shall elect a chairperson who shall, except as
39 provided in subsection (b) of section 1-82 and subsection (b) of section
40 1-93, preside at meetings of the commission and a vice-chairperson to
41 preside in the absence of the chairperson. ~~[Five]~~ Seven members of the
42 commission shall constitute a quorum. Except as provided in
43 subdivision (3) of subsection (a) of section 1-81, subsections (a) and (b)
44 of section 1-82, subsection (b) of section 1-88, subdivision (5) of section
45 1-92, subsections (a) and (b) of section 1-93 and subsection (b) of
46 section 1-99, a majority vote of the quorum shall be required for action
47 of the commission. The chairperson or any ~~[four]~~ five members may
48 call a meeting.

49 Sec. 3. Subdivision (3) of section 1-81 of the general statutes is
50 repealed and the following is substituted in lieu thereof (*Effective*
51 *October 1, 2004*):

52 (3) Upon the concurring vote of [four] five of its members, issue
53 advisory opinions with regard to the requirements of this part, upon
54 the request of any person subject to the provisions of this part, and
55 publish such advisory opinions in the Connecticut Law Journal.
56 Advisory opinions rendered by the commission, until amended or
57 revoked, shall be binding on the commission and shall be deemed to
58 be final decisions of the commission for purposes of section 1-87. Any
59 advisory opinion concerning the person who requested the opinion
60 and who acted in reliance thereon, in good faith, shall be binding upon
61 the commission, and it shall be an absolute defense in any criminal
62 action brought under the provisions of this part, that the accused acted
63 in reliance upon such advisory opinion.

64 Sec. 4. Subsections (a) and (b) of section 1-82 of the general statutes
65 are repealed and the following is substituted in lieu thereof (*Effective*
66 *October 1, 2004*):

67 (a) (1) Upon the complaint of any person on a form prescribed by
68 the commission, signed under penalty of false statement, or upon its
69 own complaint, the commission shall investigate any alleged violation
70 of this part. Not later than five days after the receipt or issuance of
71 such complaint, the commission shall provide notice of such receipt or
72 issuance and a copy of the complaint by registered or certified mail to
73 any respondent against whom such complaint is filed and shall
74 provide notice of the receipt of such complaint to the complainant.
75 When the commission undertakes an evaluation of a possible violation
76 of this part prior to the filing of a complaint by the commission, the
77 subject of the evaluation shall be notified within five business days
78 after a commission staff member's first contact with a third party
79 concerning the matter.

80 (2) In the conduct of its investigation of an alleged violation of this

81 part, the commission shall have the power to hold hearings, administer
82 oaths, examine witnesses, receive oral and documentary evidence,
83 subpoena witnesses under procedural rules adopted by the
84 commission as regulations in accordance with the provisions of
85 chapter 54 to compel attendance before the commission and to require
86 the production for examination by the commission of any books and
87 papers which the commission deems relevant in any matter under
88 investigation or in question. In the exercise of such powers, the
89 commission may use the services of the state police, who shall provide
90 the same upon the commission's request. The commission shall make a
91 record of all proceedings conducted pursuant to this subsection. Any
92 witness summoned before the commission shall receive the witness fee
93 paid to witnesses in the courts of this state. During the investigation
94 the respondent shall have the right to appear and be heard and to offer
95 any information which may tend to clear him of probable cause to
96 believe he has violated any provision of this part. The respondent shall
97 also have the right to be represented by legal counsel and to examine
98 and cross-examine witnesses. Not later than ten days prior to the
99 commencement of any hearing conducted pursuant to this subsection,
100 the commission shall provide the respondent with a list of its intended
101 witnesses. The commission shall make no finding that there is
102 probable cause to believe the respondent is in violation of any
103 provision of this part except upon the concurring vote of [four] five of
104 its members.

105 (b) If a preliminary investigation indicates that probable cause exists
106 for the violation of a provision of this part, the commission shall
107 initiate hearings to determine whether there has been a violation of
108 this part. A judge trial referee, who shall be assigned by the Chief
109 Court Administrator and who shall be compensated in accordance
110 with section 52-434 out of funds available to the commission, shall
111 preside over such hearing and shall rule on all matters concerning the
112 application of the rules of evidence, which shall be the same as in
113 judicial proceedings. The trial referee shall have no vote in any
114 decision of the commission. All hearings of the commission held

115 pursuant to this subsection shall be open. At such hearing the
116 commission shall have the same powers as under subsection (a) of this
117 section and the respondent shall have the right to be represented by
118 legal counsel, the right to compel attendance of witnesses and the
119 production of books, documents, records and papers and to examine
120 and cross-examine witnesses. Not later than ten days prior to the
121 commencement of any hearing conducted pursuant to this subsection,
122 the commission shall provide the respondent with a list of its intended
123 witnesses. The judge trial referee shall, while engaged in the discharge
124 of his duties as provided in this subsection, have the same authority as
125 is provided in section 51-35 over witnesses who refuse to obey a
126 subpoena or to testify with respect to any matter upon which such
127 witness may be lawfully interrogated, and may commit any such
128 witness for contempt for a period no longer than thirty days. The
129 commission shall make a record of all proceedings pursuant to this
130 subsection. The commission shall find no person in violation of any
131 provision of this part except upon the concurring vote of [five] seven
132 of its members. Not later than fifteen days after the public hearing
133 conducted in accordance with this subsection, the commission shall
134 publish its finding and a memorandum of the reasons therefor. Such
135 finding and memorandum shall be deemed to be the final decision of
136 the commission on the matter for the purposes of chapter 54. The
137 respondent, if aggrieved by the finding and memorandum, may
138 appeal therefrom to the Superior Court in accordance with the
139 provisions of section 4-183.

140 Sec. 5. Subsection (b) of section 1-88 of the general statutes is
141 repealed and the following is substituted in lieu thereof (*Effective*
142 *October 1, 2004*):

143 (b) Notwithstanding the provisions of subsection (a), the
144 commission may, after a hearing conducted in accordance with
145 sections 4-176e to 4-184, inclusive, upon the concurring vote of [five]
146 seven of its members, impose a civil penalty not to exceed ten dollars
147 per day upon any individual who fails to file any report, statement or

148 other information as required by this part. Each distinct violation of
149 this subsection shall be a separate offense and in case of a continued
150 violation, each day thereof shall be deemed a separate offense. In no
151 event shall the aggregate penalty imposed for such failure to file
152 exceed two thousand dollars.

153 Sec. 6. Subdivision (5) of section 1-92 of the general statutes is
154 repealed and the following is substituted in lieu thereof (*Effective*
155 *October 1, 2004*):

156 (5) Upon the concurring vote of [~~four~~] five of its members, issue
157 advisory opinions with regard to the requirements of this part, upon
158 the request of any person, subject to the provisions of this part, and
159 publish such advisory opinions in the Connecticut Law Journal.
160 Advisory opinions rendered by the commission, until amended or
161 revoked, shall be binding on the commission and shall be deemed to
162 be final decisions of the commission for purposes of section 1-98. Any
163 advisory opinion concerning any person subject to the provisions of
164 this part who requested the opinion and who acted in reliance thereon,
165 in good faith, shall be binding upon the commission, and it shall be an
166 absolute defense in any criminal action brought under the provisions
167 of this part that the accused acted in reliance upon such advisory
168 opinion.

169 Sec. 7. Subsections (a) and (b) of section 1-93 of the general statutes
170 are repealed and the following is substituted in lieu thereof (*Effective*
171 *October 1, 2004*):

172 (a) (1) Upon the complaint of any person on a form prescribed by
173 the commission, signed under penalty of false statement, or upon its
174 own complaint, the commission shall investigate any alleged violation
175 of this part. Not later than five days after the receipt or issuance of
176 such complaint, the commission shall provide notice of such receipt or
177 issuance and a copy of the complaint by registered or certified mail to
178 any respondent against whom such complaint is filed and shall
179 provide notice of the receipt of such complaint to the complainant.

180 When the commission undertakes an evaluation of a possible violation
181 of this part prior to the filing of a complaint by the commission, the
182 subject of the evaluation shall be notified within five business days
183 after a commission staff member's first contact with a third party
184 concerning the matter.

185 (2) In the conduct of its investigation of an alleged violation of this
186 part, the commission shall have the power to hold hearings, administer
187 oaths, examine witnesses, receive oral and documentary evidence,
188 subpoena witnesses under procedural rules adopted by the
189 commission as regulations in accordance with the provisions of
190 chapter 54 to compel attendance before the commission and to require
191 the production for examination by the commission of any books and
192 papers which the commission deems relevant in any matter under
193 investigation or in question. In the exercise of such powers, the
194 commission may use the services of the state police, who shall provide
195 the same upon the commission's request. The commission shall make a
196 record of all proceedings conducted pursuant to this subsection. Any
197 witness summoned before the commission shall receive the witness fee
198 paid to witnesses in the courts of this state. The respondent shall have
199 the right to appear and be heard and to offer any information which
200 may tend to clear him of probable cause to believe he has violated any
201 provision of this part. The respondent shall also have the right to be
202 represented by legal counsel and to examine and cross-examine
203 witnesses. Not later than ten days prior to the commencement of any
204 hearing conducted pursuant to this subsection, the commission shall
205 provide the respondent with a list of its intended witnesses. The
206 commission shall make no finding that there is probable cause to
207 believe the respondent is in violation of this part, except upon the
208 concurring vote of [four] five of its members.

209 (b) If a preliminary investigation indicates that probable cause exists
210 for the violation of a provision of this part, the commission shall
211 initiate hearings to determine whether there has been a violation of
212 this part. A judge trial referee, who shall be assigned by the Chief

213 Court Administrator and who shall be compensated in accordance
214 with section 52-434 out of funds available to the commission, shall
215 preside over such hearing and shall rule on all matters concerning the
216 application of the rules of evidence, which shall be the same as in
217 judicial proceedings. The trial referee shall have no vote in any
218 decision of the commission. All hearings of the commission held
219 pursuant to this subsection shall be open. At such hearing the
220 commission shall have the same powers as under subsection (a) of this
221 section and the respondent shall have the right to be represented by
222 legal counsel, the right to compel attendance of witnesses and the
223 production of books, documents, records and papers and to examine
224 and cross-examine witnesses. Not later than ten days prior to the
225 commencement of any hearing conducted pursuant to this subsection,
226 the commission shall provide the respondent with a list of its intended
227 witnesses. The judge trial referee shall, while engaged in the discharge
228 of his duties as provided in this subsection, have the same authority as
229 is provided in section 51-35 over witnesses who refuse to obey a
230 subpoena or to testify with respect to any matter upon which such
231 witness may be lawfully interrogated, and may commit any such
232 witness for contempt for a period no longer than thirty days. The
233 commission shall make a record of all proceedings pursuant to this
234 subsection. The commission shall find no person in violation of any
235 provision of this part except upon the concurring vote of [five] seven
236 of its members. Not later than fifteen days after the public hearing
237 conducted in accordance with this subsection, the commission shall
238 publish its finding and a memorandum of the reasons therefor. Such
239 finding and memorandum shall be deemed to be the final decision of
240 the commission on the matter for the purposes of chapter 54. The
241 respondent, if aggrieved by the finding and memorandum, may
242 appeal therefrom to the Superior Court in accordance with the
243 provisions of section 4-183.

244 Sec. 8. Subsection (b) of section 1-99 of the general statutes is
245 repealed and the following is substituted in lieu thereof (*Effective*
246 *October 1, 2004*):

247 (b) Notwithstanding the provisions of subsection (a) of this section,
248 the commission may, after a hearing conducted in accordance with
249 sections 4-176e to 4-184, inclusive, upon the concurring vote of [five]
250 seven of its members, impose a civil penalty not to exceed ten dollars
251 per day upon any registrant who fails to file any report, statement or
252 other information as required by this part. Each distinct violation of
253 this subsection shall be a separate offense and, in case of a continued
254 violation, each day thereof shall be deemed a separate offense. In no
255 event shall the aggregate penalty imposed for such failure to file
256 exceed two thousand dollars.

257 Sec. 9. (NEW) (*Effective July 1, 2004*) (a) The State Ethics
258 Commission, as created in section 1-80 of the general statutes, as
259 amended by this act, shall annually be funded by the General
260 Assembly in an amount equal to the amount of funding received by
261 the commission in the previous year plus an amount to reflect the
262 increase in the rate of inflation, as determined by changes in the
263 consumer price index. Within available appropriations, the funding of
264 the commission shall annually be increased by two per cent for
265 purposes of adjustments to personnel salaries.

266 (b) The executive director of the State Ethics Commission shall
267 annually present the director's proposed budget to the commission for
268 approval by five or more members.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>July 1, 2004</i>

Statement of Purpose:

To provide greater citizen input on the composition of the State Ethics Commission and assure proper funding levels for the commission.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]